

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JERRY DOWELL BAILEY, JR.,

Petitioner, CASE No. 06-14099

v.

HONORABLE DENISE PAGE HOOD

WILLIE SMITH,

Respondent¹.

/

**ORDER DENYING PETITIONER'S MOTION FOR CERTIFICATE OF
APPEALABILITY**

This matter comes before the Court on Petitioner's Motion for Certificate of Appealability on August 20, 2008 [**Docket No. 29**]. On June 30, 2008 this Court entered an Order adopting Magistrate Judge Paul Komives' Report and Recommendation and Dismissing Petitioner's Petition for Habeas Corpus [**Docket No. 25**], from which Petitioner is now seeking to appeal.

Before Petitioner may appeal the Court's dispositive decision denying his petition, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(B); Fed. R. App. P. 22(b). The Court must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F. 3d 1306, 1307 (6th Cir. 1997). A certificate of appealability may be issued "only if the applicant has made a substantial

¹By Order entered January 14, 2008, Willie Smith has been substituted for Kenneth McKee as the proper respondent in this action.

showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The substantial showing threshold is satisfied when a petitioner demonstrates “that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

After reviewing the Court’s Order and Petitioner’s Motion for Certificate of Appealability, the Court finds that Petitioner merely reiterates his objections to the Magistrate Judge’s Report and Recommendation that were raised previously. Petitioner has not shown that the Court’s findings and conclusions of law are debatable among jurists and that the issues raised in the petition deserve further proceedings.

Accordingly,

IT IS ORDERED that a Certificate of Appealability NOT issue in this case.

IT IS FURTHER ORDERED that the Motion for Certificate of Appealability [Docket No. 29, filed August 20, 2008] is DENIED.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: August 28, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record and
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on August 28, 2008, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager